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C O N F I D E N T I A L SECTION 01 OF 03 TAIPEI 000964

SIPDIS

DEPT PLEASE PASS TO CA/VO/L/A FOR BRIAN HUNT
GUANGZHOU FOR M. JACOBSEN/K. LANG
SHENYANG FOR J. FOUSS

E.O. 12958: DECL: 08/05/2019
TAGS: [CVIS](#) [KFRD](#) [KJUS](#) [PREL](#) [TW](#) [CH](#)
SUBJECT: RECOMMENDATION FOR FOREIGN POLICY REFUSAL OF VISA
FOR INDICTED EMBEZZLER CHEN YOU-HAO

REF: A. TAIPEI 0277
[B](#). TAIPEI 0570
[C](#). TAIPEI 0651
[D](#). WWW.NEWSWEEK.COM/ID/74369

Classified By: AIT Acting Director Robert S. Wang,
for Reasons 1.4(B) and (D).

[1](#)1. (C) Summary. AIT recommends that the visa application for Chen You-hao (among the ten "Most Wanted" criminal fugitives in Taiwan) be denied on the basis of foreign policy considerations. Visa issuance would seriously undermine U.S. law enforcement cooperation with Taiwan and, further, could affect our ability to work effectively with Taiwan on a broader range of issues. End summary.

[1](#)2. (C) Chen You-hao, and his wife Lin Fu-mei, indicted by Taiwan courts for offenses ranging from breach of trust to fraud and embezzlement, have applied for the renewal of H1B/H4 visas in Guangzhou. Despite the fact that Taiwan authorities have produced a significant body of credible evidence to support charges that Chen and his wife may have been involved in multi-million dollar white collar crimes and even though his current application may be aimed primarily at avoiding extradition to Taiwan given a recent cross-Strait legal assistance agreement, there appear to be no legal ineligibilities. Thus, AIT recommends that the Department make a finding of ineligibility on the basis of foreign policy considerations. Issuing these visas would not only discount indictments that have been lawfully-executed in Taiwan courts, but would also create significant friction in the U.S.-Taiwan relationship by permitting a high-profile economic fugitive, the subject of a 2007 Newsweek article on how he gamed the cross-Strait relationship to escape justice, to continue to conduct business in the United States. Given that Taiwan's cooperation in complying with U.S. requests for the return of criminal fugitives in Taiwan has come under public fire for a perceived lack of equity, issuing visas to Chen and Lin could exacerbate this perception and create greater pressure on the Ma administration to demonstrate its equities on other issues in the U.S.-Taiwan relationship.

Background

[1](#)3. (C) Chen You-hao and his wife Lin Fu-mei are named as principal defendants in at least two indictments (2003 and 2005) for breach of trust and embezzlement. Both have a history of circumventing safeguards in Taiwan and U.S. immigration systems, including applying for asylum as PRC nationals, renewing visas through Mexico, insisting on using

a PRC passport for visa issuance purposes (rather than the Taiwan passport, which was revoked because of the criminal indictments), etc. While Chen and Lin maintain their innocence, they have not returned to Taiwan to defend their case in court and Taiwan's judicial system does not permit conviction in absentia.

14. (C) Chen's alleged money laundering and embezzlement activities can be traced back to 1992, according to the 2003 and 2005 indictments issued by the Taipei District Court Prosecutor's Office. According to the 2007 Newsweek article (ref D), Chen began building his first factory in China in 1992 and eventually served as an advisor to Xianglu and Dragon Group, which received permission in 2004 to produce PX, a toxic chemical used in plastic and polyester, in Xiamen. From November 2001 to April 2002, according to the 2005 indictment, Zheng Maoxi (aka Zheng Maozhi, Ray Cheng), the owner of Natural United Company Ltd, used his U.S. passport to open a "foreigner" account at the HSBC Taipei Branch, which was used to launder money embezzled from Dongding Corporation by Chen You-hao and others. In August and November 2002, respectively, Chen and Lin departed Taiwan using their Taiwan passports. The investment funds declared in Chen's initial I-526 petition in 2003 came as personal earnings derived from technical consulting services rendered between April 2003 and April 2006 from Advance Engineering (B.V.I.). In March 2004, Chen and his family applied for asylum in San Francisco with valid PRC passports. In April 2004, Advance Engineering signed an umbrella agreement with Xianglu Petrochemicals (Xiamen) Company and in April 2006, Pacific Rim Traders LLC, Chen's U.S. company, signed an

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agreement with Dragon Special Resin (Xiamen) Company. In May 2006, the money earned from Advanced Engineering is invested in Pacific Rim Traders LLC. In addition, local press reported the Hilton Los Angeles/Universal City, where Ma Ying-jeou stayed during his June transit through Los Angeles, was owned by Chen, though information from the Ministry of Foreign Affairs indicates Chen is not the current owner and had only previously invested in the property.

Reasons for Chen's Travel to US

15. (C) During the Chen Shui-bian era, Chen You-hao appeared to benefit from Beijing largesse with the issuance of a PRC passport to replace the Taiwan passport cancelled due to his indictments, according to a December 17, 2007, article in Newsweek ("Where 'Guanxi' Rules," Newsweek U.S. edition). The article explains how Chen apparently gamed cross-Straits relations under Chen Shui-bian to not only avoid standing trial in Taiwan, but also to continue to grow his businesses on the mainland. After President Ma Ying-jeou took office in May 2008, cross-Straits relations greatly improved, resulting in a new Cross-Straits Joint Crime-Fighting and Mutual Legal Assistance Agreement (cross-Straits MLAA) signed in Nanjing on April 26 (ref B). This agreement satisfies the Ma administration's priority to establish a mechanism for the return of Taiwan's criminal fugitives from the mainland, particularly those charged with economic white-collar crimes like Chen. Chen would be aware of Beijing's friendlier relations with Taiwan and the new agreement covering the repatriation of Taiwan's economic criminal fugitives. If China accedes to Taiwan's requests for repatriation of certain high-profile fugitives like Chen (and many observers believe they must in order to demonstrate Beijing's sincerity in cross-Straits improvements), then Chen's ability to move freely between the U.S. and China may be compromised. In fact, Taiwan may seek the extradition of Chen back to Taiwan to stand trial.

Foreign Policy Implications

16. (C) President Ma Ying-jeou has identified an extradition

agreement as a top policy priority for the U.S.-Taiwan relationship. Ma and other Taiwan officials have indicated their desire to regularize current ad-hoc U.S.-Taiwan law enforcement cooperation and to secure the return of the over one hundred thirty criminal fugitives believed to be residing in the United States (refs A and C). Following the conclusion of the Cross-Strait MLAA, Taiwan officials expect to see an even greater rise in the number of fugitives fleeing to the United States as the mainland begins to implement the agreement and return Taiwan fugitives back across the Strait. (Note: The U.S. is already the top destination for Taiwan fugitives.)

¶7. (C) But there has been no similar improvement to date in Taiwan's law enforcement relationship with the U.S. Taiwan authorities have expressed their frustration over the years with U.S. inability to secure the return of high-profile economic fugitives like Chen. This frustration crosses party lines; Chen has been a top ten wanted fugitive under both DPP and KMT administrations. It has also become an increasing irritant in U.S.-Taiwan law enforcement cooperation, leading to an op-ed by a former Taiwan official criticizing the perceived inequities in the relationship. (Note: While Taiwan authorities have returned five criminal fugitives, including murderers and rapists, over the past twenty months, we have been unable to return even one of the one hundred thirty-three fugitives from Taiwan justice believed to be residing in the U.S.) This heightened public sensitivity recently led to strong media, public, and legislative pressure to refuse to return an alleged child molester wanted in the U.S. While Taiwan authorities were ultimately able to push back and return the alleged child molester (which required President Ma's personal intervention), the public pressure led to delays and has compromised our ability to request assistance and obtain the return of U.S. fugitives (refs A and C).

¶8. (C) The fact that not only is the U.S. government unable to return Chen, an individual accused of embezzling over one

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hundred million U.S. dollars from Taiwan, to Taiwan to stand trial, but that we are, in fact, about to issue him a visa to continue to conduct business in the U.S. would severely undermine public perception of the U.S.-Taiwan relationship and could impact our ability to obtain Taiwan's cooperation on a range of issues (such as beef) as the Taiwan public exerts pressure on the Ma administration to demonstrate a more equitable relationship.

Recommendation

¶9. (C) We understand that the Visa Office, after extensive consultation with the Department of Justice, has found that Chen may not be ineligible for a visa under section 212(a)(2)(I) of the Immigration and Nationality Act (related to money laundering), nor is he ineligible under 212(a)(2)(A) because he has not returned to stand trial, and therefore, cannot be convicted. Given that his current visa application is for a H1B visa, residence abroad requirements under 214(B) do not apply even though Chen's current visa application is aimed primarily at avoiding extradition to Taiwan from mainland China. It is AIT's view that, if Mr. Chen (whom some have characterized as "Taiwan's Bernie Madoff") is not ineligible under 212(a)(2)(I), then his visa should be denied under section 212(a)(3)(C) because to do so would have "potentially serious adverse consequences for the United States." Allowing Mr. Chen's entry to and business activities in the United States would create significant public pressure on the Ma administration to demonstrate a more equitable law enforcement relationship with the U.S., resulting in the degradation of cooperation on repatriations, and more widely, undermining public perception of robust U.S.-Taiwan relations.

Comment

¶10. (C) It is important that we actively manage the U.S.-Taiwan relationship, rather than respond to problems after they occur. We have no doubt that there will be a very strong government and public reaction to U.S. issuance of a visa to Chen at this time. Denying a visa to Chen, formally indicted and the subject of media attention both locally and internationally, besides being justifiable, bears little political cost to us. Refusing to allow Chen and his wife to continue their business activities in the U.S. would avoid a public outcry that could reinforce the rising perception that the United States remains the sole beneficiary of the U.S.-Taiwan law enforcement relationship.

WANG